

FAMILY LAW SECTION

Respectfully submits the following position on:

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SB 0100

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The Family Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Family Law Section only and is not the position of the State Bar of Michigan.

To date, the State Bar does not have a position on this matter.

The total membership of the Family Law Section is 2,540.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 21. The number who voted in favor to this position was 18. The number who voted opposed to this position was 0.

Report on Public Policy Position**Name of section:**

Family Law Section

Contact person:

Kent Weichmann

E-mail:weichmann@earthlink.net**Bill Number:**

SB 0100 (Jansen) Family law; child support; support and parenting time enforcement act; make miscellaneous changes. Amends secs. 2, 3, 3a, 5b, 5c, 5d, 5e, 7, 8, 9, 11a, 19, 24, 25a, 26b, 28, 29, 30, 31, 33, 35, 39, 44, 45, 46 & 48 of 1982 PA 295 (MCL 552.602 et seq.).

Date position was adopted:

March 7, 2009

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

21

Number who voted in favor and opposed to the position:

18 Voted for position

0 Voted against position

0 Abstained from vote

3 Did not vote

Position:

Oppose and Amend

Explanation of the position, including any recommended amendments:

The Friend of the Court Association bills are now SB 99 – SB 107. Last term the original drafts went through extensive revisions to address criticisms from a number of groups, including our section. As revised, there are still four provisions that we find objectionable, two of which are within SB 100.

1. SB 100, p. 14, 16 modifies MCL 552.603a to eliminate surcharges unless ordered by the court for willful failure to pay support. Surcharges were originally intended to help preserve the value of child support arrearages, in lieu of interest. If child support arrearages are not surcharged, it will be to the payer's financial benefit to pay other interest-bearing debts before paying child support, and the payee will lose the present value of the child support with no recompense. The Family Law Section opposes these bills unless these provisions are eliminated.

2. SB 100, p. 33 et seq. modifies MCL 552.609 (and others) to limit the amount that sources of income may withhold to 50% of a payer's disposable income. Under federal law, income withholding may withhold up to 60% of disposable earnings if there are arrearages, and up to 65% if there are arrearages and no other dependents. Base child support for four children starts at 55% of net income, so limiting income withholding to 50% would not even address the base support in those cases. This forces those cases into arrearages, where the payer is threatened with jail, seizure of bank accounts, loss of license, and other drastic enforcement remedies. The reason behind income withholding in the first place is to avoid such heavy handed remedies. The Family Law Section opposes this bills unless this provisions is eliminated.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://legislature.mi.gov/doc.aspx?2009-SB-0100>